

SECTION 103

Applicant has requested continued examination concurrently with this amendment which has changed the wording of claim 1 to more clearly show the connection noted by the Examiner to be unclear to the Examiner.

The Examiner, in entering the most recent amendment, indicated the claims were not in a position for allowance as the citation to Davilla employed bridges (for an integral connection) and also that a “W” shape, inherently had a V Shape within it.

Applicant restates the arguments presented in the previous office action response herein.

Additionally, Applicant while not agreeing with the Examiner’s definition of integral, has amended claim 1 to more clearly show what was stated in the specification that the connections of the anchoring elements 22 to the wall elements (15 and 14) should be an integral, one piece engagement point. (See page 6 of specification)

Additionally, in the terminal region of the stent, the specification notes that the segments are connected directly to each other without spring elements so they only expand in the axial direction.

The cited art of Davila, does not have a one-piece symmetrical connection of the anchoring elements to the wall elements but instead includes a spring element that spaces the connection of the ends of the anchoring element from the wall elements in a non symmetrical connection that is not one-piece. Further, Davila does this for the opposite reason.

Davila states (column 8 lines 5-20) that the bridges (116) offset the “W” shaped anchoring elements in a non-symmetrical connection. These bridges can cause a rotating effect on the stent as it is deployed so they must be positioned in between each intersecting wall segments (14 and 15 in applicant’s device) to prevent this occurrence. (Davila column 8 to column 9) Consequently, if there were no bridges (116) as claimed in applicants one-piece symmetrical connection at the three way intersection of the ends of the anchoring element 22 and the connection point of the segments 14 and 15, the device of Davila would not operate.

Additionally, with the bridges (116) of Davila engaged in opposite directions along the length of the stent, upon deployment and the rotation of the segments opposite each other, the bridges will rotate also. This will cause a substantial difference in the axial length of the Davila

device which claims to maintain a diameter integrity, but not the axial length on deployment.

Applicant's device is expressly concerned with maintaining the axial length by employing connections 12 that are thicker than the segments and (page 2 paragraph 3 of specification) there is a direct connection at the ends of the stent to the anchoring elements and the adjacent directly connected segments to minimize or eliminate axial expansion of the stent during deployment.

Thus, applicant's single piece symmetrical engagement of the ends of the anchoring elements to the wall elements provides a function that would be lost should the suggested inclusion of the angled bridges (116) of Davalia, since as noted, they do not prevent axial expansion. Further, in figure 3 of Davila noted by the Examiner, the bridges (116) all extend at the same angle between the stent and the "W" shaped anchoring elements. As noted in Davila, with all at the same angle, a rotation of the engaged anchoring elements will occur on deployment and a concurrent axial lengthening by the bridges (116) moving in one direction, spacing the w-shaped anchoring elements further from the stent.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Since the structure suggested by the Examiner lacks elements and function of Applicant's device which the unique structure of applicant's device enables, the objection pursuant to section 103 is respectfully traversed.

There is no motivation for taking a non-symmetrical, bridge-engaged, non-V-shaped, expansion anchoring component of Davila, which is offset by the bridges (116) to resist stress and strain, and cause an axial lengthening and eliminate the bridge (116), and then engage the ends of a V-shaped anchor so that they integrally engage in a one piece engagement at the intersection of the wall elements 14,15.

There is no such motivation or teaching since Davila, is teaching for very specific performance reasons of relieving stress and strain on the Davila device, of always using loop to bridge connections only, and always using this bridged connection to offset the connection points of the loops in a non symmetrical engagement and by angling the bridges away from their connection to the terminal wall elements on one end, to their connection to the loops on the other, to achieve this required and desired non-symmetrical engagement of the loop ends.

Thus, Davila, for operative and performance reasons, teaches away from the applicant's claimed flexible, curved anchoring element (22) which are in a one-piece symmetrical connection at the intersection of at least two terminal wall elements (14, 15, 14', 15') and which bridges at least one elastic wall element, to maintain axial length which as clearly claimed taught by Applicant.

The combination with Kim, Davila, and Fischell is also, lacking elements of the claimed invention, and even if not, lacking any motivation to change the structure of Davila and rendering it inoperable for its stated principles to combine it with Kim, is respectfully traversed.

Final Remarks

Stents are a crowded art. As previously noted, Applicant, in the specification considers the improvement to be substantial and provide great benefits to the patient in whom such a stent is implanted providing both flexibility as well as a solid mount for the device in the curved and flexible environment of a blood vessel while maintaining axial length which is a concern during implantation.

However, even if the Examiner does not consider Applicant's claimed device a great advance in the art of vascular stents, it has been established that one should not be deprived of patent protection where it can be shown that any genuine improvement has been made, on comparison with other inventions in the art - even if the improvement lacks the appearance of a great advance in the art. (*In re Lange*, 128 USPQ 365)

Even though the invention seems a simple advance over prior art, *after the fact*, simplicity, argues *for*, rather than against patentability. (*Meng and Driessen*, 181 USPQ 94, on page 97)

Considering that Applicant's device has combined elements not taught or suggested in the prior art, and that the device employed curved and flexible blood vessels of a patient offer an improvement in the art, and considering that both major and minor improvements in the art argue for patentability, the claims of the patent should now be allowable.

Should the Examiner have any further questions or concerns the Examiner wishes to address, or should the Examiner have suggestions as to language that might more clearly define the invention, the Applicant's attorney would be most receptive to such by telephone.

Respectfully submitted,



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08/19/08

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